

In the Office Action, it was stated that the inventions of Groups I and II are distinct because the method of Group I and the composition of Group II are related as process of making and product made. It was further explained that the inventions are distinct if either one or both of the following can be shown: (1) the process as claimed can be used to make other materially different product or (2) the product as claimed can be made by another and materially different process. Section 806.05(f) of the MPEP was relied upon for this assertion. The Examiner also stated that:

in the instant case the composition of Group II can be made by heat denaturation or standard protein purification rather than by exposure to acidic pH.

Office Action, page 2.

It was elaborated that:

because these inventions are distinct for the reasons given above, have separate classifications, and each of the inventions listed as Groups I and II requires a separate search, restriction for examination purposes as indicated is proper. "For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP 808.02" (see MPEP 803). The inventions listed as Groups I and II require divergent patent and non-patent literature and/or sequence searches, thus establishing the serious burden of search on the examiner. *Id.*

Applicant respectfully submits that the claimed composition of Group II is related to the claimed method of Group I. Therefore, it is respectfully submitted that the conclusion that the method of making a polypeptide preparation having a reduced content of undesired enzymatic activities defines a different and distinct invention than the milk clotting composition comprising a preparation of an aspartic protease, the composition being essentially free of undesired enzymatic side activities of Group II, is improper.

In view of the above remarks, it is thus respectfully requested that the restriction requirement be withdrawn and that all claims be allowed to be prosecuted in the same application. In the event that the requirement is made final, and in order to comply with 37 C.F.R. § 1.143, Applicant reaffirms the election of Claims 1-32 (Group I) with traverse, holding the remaining claims in abeyance under the provisions of 37 C.F.R. § 1.142(b) until final disposition of the elected claims.

CONCLUSION

Applicant respectfully submits that the application is in condition for allowance and respectfully requests a notice of allowance for all the pending claims. Should the Examiner determine that any further action is necessary to place this application in condition for allowance, the Examiner is kindly requested and encouraged to telephone Applicant's undersigned representative at the number listed below.

It is believed that no fees are due in connection with this response. However, if any fees are determined to be due, the Commissioner is hereby authorized to charge these fees to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

HUNTON & WILLIAMS

Dated: February 11, 2002

By:


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